

IN THE UNITED STATES DISTRICT COURT
FOR THE WESTERN DISTRICT OF TEXAS
AUSTIN DIVISION

Filed

8/30/12
Clerk, U. S. District Court
Western District of Texas

By

Deputy

RICHARD'S PAINT AND BODY SHOP,
LLC D/B/A CUSTOM CAR CRAFTERS
Plaintiff, Counter-Defendant

v.

BASF CORPORATION AND
FINISHMASTER, INC.,
Defendants, Counter-Plaintiffs

NO. A-11-CA-560 AWA

VERDICT FORM

We, the jury, unanimously find the following:

QUESTION ONE

Did Defendant BASF or FinishMaster breach an implied warranty of fitness for a particular purpose with regard to the paint supplied to CCC?

Answer "Yes" or "No" as to each Defendant:

BASF

yes

FinishMaster

yes

Please proceed to Question Two.

QUESTION TWO

Did Defendant BASF or FinishMaster breach an implied warranty of merchantability with regard to the paint supplied to CCC?

Answer "Yes" or "No" as to each Defendant:

BASF No

FinishMaster No

Please Proceed to Question Three.

QUESTION THREE

Did CCC prove by a preponderance of the evidence that BASF or FinishMaster committed fraud? Answer "Yes" or "No" as to each Defendant:

BASF yes

FinishMaster yes

If you answered "Yes" as to any Defendant in Questions One, Two or Three, please proceed to Question Four. If you answered "No" as to both Defendants in Questions One, Two and Three, please proceed to Question Seven.

QUESTION FOUR

What sum of money, if paid now in cash, would fairly and reasonably compensate CCC for its damages, if any, that resulted from any of the conduct you have found BASF or FinishMaster committed by your answers to Questions One, Two or Three?

Answer in dollars and cents:

\$ 1,500,000⁰⁰

If your answer to the *previous* question (Question Three) was "Yes" as to any Defendant, please proceed to Question Five. If you answered the *previous* question (Question Three) "No" as to both Defendants, proceed to Question Seven.

QUESTION FIVE

Did CCC prove by *clear and convincing evidence* that BASF or FinishMaster committed fraud? Answer "Yes" or "No" as to each Defendant:

BASF yes

FinishMaster yes

If you answered "Yes" as to any Defendant, then proceed to Question Six. If you answered "No" as to both Defendants, skip the next Question and proceed to answer Question Seven.

QUESTION SIX

What sum of money, if any, if paid now in cash, should be assessed against BASF or FinishMaster and awarded to CCC as punitive damages, if any, for fraud? **You may only award damages on this question for a defendant if you have answered "Yes" as to that defendant in Question Five.**

BASF: \$ 1,500,000⁰⁰

FinishMaster: \$ 750,000⁰⁰

Proceed to the next question.

QUESTION SEVEN

Has CCC proven by a preponderance of the evidence that its failure to pay BASF the Contract Fulfillment Consideration is excused? Answer "Yes" or "No."

Answer: No

If you answered "Yes" to Question Seven, proceed to Question Nine. If you answered "No" to Question Seven, proceed to the next question.

QUESTION EIGHT

What is the amount of damages that BASF suffered as a result of CCC's breach of contract?

\$ 176,000⁰⁰

Proceed to the next question.

QUESTION NINE

Has CCC proven by a preponderance of the evidence that its failure to pay FinishMaster liquidated damages is excused? Answer "Yes" or "No."

Answer: No

If you answered "No" to Question Nine, proceed to the next question. If you answered "Yes" to Question Nine, proceed to the final page of the Verdict Form.

QUESTION TEN

What is the amount of damages that FinishMaster suffered as a result of CCC's breach of contract? Answer in dollars and cents, if any.

\$ 100,000⁰⁰

Please proceed to the final page of the Verdict Form.

We, the jury, unanimously answered the preceding questions.

Submitted the 30 day of August, 2012, at 4 o'clock p.m.

**ORIGINAL SIGNATURE
REDACTED PURSUANT TO
E-GOVERNMENT ACT OF 2002
FOREPERSON.**